

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THE MERCY HOSPITAL, INC.,)
Plaintiff)
vs.)
MASSACHUSETTS NURSES)
ASSOCIATION,)
Defendant)

Civil Action No. 04-30014-MAP

1005 LAD - 4 P 3:31
U.S. DISTRICT COURT
DISTRICT OF MASS.

FILED
IN CLERK'S OFFICE

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S
MOTION TO STRIKE PLAINTIFF'S OBJECTION**

Now comes the plaintiff, Mercy Hospital, and opposes the defendant's Motion to Strike for the reasons stated below:

1. The objection filed by the plaintiff is not untimely. The filing on February 2, 2005, was in accordance with the court's own order. On the electronic transmittal, the order stated that the date the objections were due was February 2, 2005 (Exh. 1). Counsel called court clerk Bethany Healy to double check that this was the correct date and received a voice mail in return that February 2, 2005, was the correct date and that the court was computing the time under *Fed. R. Civ. P. 6(a)* and the additional time under *Fed. R. Civ. P. 6(e)*. Adding three days, as per *Fed. R. Civ. P. 6(e)*, together with the excluded holidays and weekends, results in a date of February 2, 2005. Even if the court's interpretation had been incorrect, the court has the power to set the time for the response. See *Fed. R. Civ. P. 6(b)*.

2. There are no grounds to strike any portion of the plaintiff's submission. The "record" referred to in *Fed. R. Civ. P.* 72(b) is a reference to "all evidentiary proceedings before the magistrate judge." *Fed. R. Civ. P.* 72(b). There was no evidentiary proceeding in this case and no other record was made. The ruling in question was essentially identical to a motion for summary judgment. Plaintiff only included in the record items placed before the Magistrate Judge. Their relevance is discussed in plaintiff's submission. It is certainly within the court's discretion to determine whether the exhibits are relevant and to rule accordingly.

THE PLAINTIFF, THE MERCY HOSPITAL, INC.
BY ITS ATTORNEY

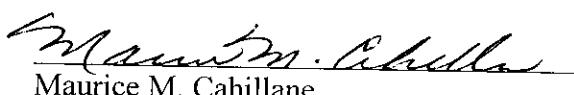
Dated: March 4, 2005



Maurice M. Cahillane, Esq.
EGAN, FLANAGAN AND COHEN, P.C.
67 Market Street - Post Office Box 9035
Springfield, MA 01102
(413) 737-0260; Fax: (413) 737-0121
BBO# 069660

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served this 4thnd day of March, 2005, on all parties, by Fax and First Class Mail, to: Mark A. Hickernell, Esq., McDonald & Associates, 153 Cordaville Road, Suite 210, Southborough, MA 01772



Maurice M. Cahillane

Patricia A. Reiss

From: ECFnotice@mad.uscourts.gov
sent: Thursday, January 13, 2005 10:36 AM
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Subject: Activity in Case 3:04-cv-30014-MAP The Mercy Hospital, Inc. v. Massachusetts Nurse Association "Report and Recommendations"

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 \\$' --> United States District Court District of Massachusetts

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 \\$' Case Name: The Mercy Hospital, Inc. v. Massachusetts Nurse Association Case Number:
 3:04-cv-30014 https://ecf.mad.uscourts.gov/cgi-bin/DktRpt.pl?90324

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Docket Text:

Judge Kenneth P. Neiman : Electronic ORDER entered. REPORT AND RECOMMENDATIONS re [11] MOTION to Vacate filed by The Mercy Hospital, Inc.,, [15] MOTION to confirm arbitration award filed by Massachusetts Nurse Association, Recommendation: that the plaintiff's motion to vacate be DENIED and that the defendant's motion to confirm be ALLOWED. Objections to R&R due by 2/2/2005(Stuckenbruck, John)

The following document(s) are associated with this transaction:

Document description: Main Document

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{STAMP dcecfStamp_ID=1029851931 [Date=1/13/2005] [FileNumber=814950-0]
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 b45ded56fa1895c0cb6bc7b932abbbfd8e98006]}

<!-- rcsid='\\$Header: /ecf/district/server/TextAtyList,v 3.2 2003-06-02 17:37:56-04 bibeau
 Exp \\$' --> 3:04-cv-30014 Notice will be electronically mailed to:
 Maurice M. Cahillane , Jr
 mmcahillane@eganflanagan.com

Mark A. Hickernell
 mhickernell@masslaborlawyers.com

Alan J. McDonald

amcdonald@masslaborlawyers.com

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